



PATENT
Attorney Docket No. MGH-14819

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Haupert, et al.

Serial No.: 10/601,184

Art Unit: 1644

Filed: 06/20/2003

Examiner: Schwandron, R.

Entitled: Biosynthesis Of HIF

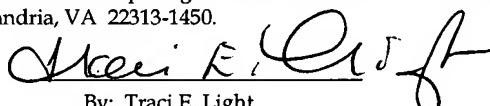
RESPONSE TO RESTRICTION REQUIREMENT
MAILED AUGUST 27, 2007

Mail Stop - Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING UNDER 37 C.F.R. § 1.8(a)(1)(i)(A)

I hereby certify that this correspondence (along with any referred to as being attached or enclosed) is, on the date shown below, being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Dated: October 29, 2007


By: Traci E. Light

Examiner Schwandron:

Please enter the following, on the record, in response to the Restriction Requirement mailed May 1, 2007. A Petition For A One Month Extension Of Time is attached hereto..

The Examiner believes that:

This application contains claims directed to the following patentably distinct species. The particular molecules recited in claim 1 wherein applicant is required to select a single molecule.

Restriction Requirement, pg. 2. The Applicants disagree because Claim 1, as amended in the previous office action response, provides a properly constructed Markush group:

The members of the Markush group ... ordinarily must belong to a recognized physical or chemical class or to an art-recognized class.

MPEP 803.02: Markush Claims [emphasis added]. Clearly, the present Markush group contains related elements to the art-recognized class of biosynthetic pathway intermediates and their respective enzymes.. The Examiner is referred to Figure 1, which details the relationships between the intermediate compounds and their respective enzymes.

Consequently, the Applicants traverse the present Restriction Requirement and respectfully request reconsideration. The Applicants, however, provide an election of the Examiners' offered species only because required to do so under 35 U.S.C. § 121. If the Examiner does not reconsider the present election of species, the Applicants elect 5 β pregnane-3,20-dione.

CONCLUSION

The Applicants believe that the arguments and species election set forth above traverse the Examiner's Restriction Requirement. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, the Applicants encourage the Examiner to call the undersigned collect at 617.984.0616.

Dated: October 29, 2007



Thomas C. Howerton
Registration No. 48,650

MEDLEN & CARROLL, LLP
101 Howard Street, Suite 350
San Francisco, California 94105
617.984.0616